

March 8, 2016

Planning Commission Written Comments

LEIGH VILLAGE COMPACT NEIGHBORHOOD (A1500014)

Brine – I voted against this proposed compact neighborhood for several reasons, which are detailed below.

1. Crossing NC 54 to include the Falconbridge Shopping Center

Among the guidelines staff established for consideration of compact neighborhoods was the use of large rights-of-way (highways, railroad corridors, etc.) that preclude pedestrian connections as edges. The NC-54 corridor in this area is one of the busiest in the state and certainly precludes pedestrian connections. Yet staff has chosen to extend the boundary of the proposed compact neighborhood across the NC-54 corridor. Since most of the Falconbridge Shopping Center is outside of the half-mile distance from the proposed Leigh Village Light Rail Station, it is hard to understand how the inclusion of this shopping center encourages a walkable neighborhood.

Staff points out that future transportation infrastructure improvements identified in the NC-54/I-40 Corridor Study could (underline is mine) improve pedestrian connectivity across NC-54 to the Falconbridge Shopping Center. (Note that improved pedestrian connectivity is not guaranteed.) In my review of the NC-54/I-40 Corridor Study I found 13 projects listed under Durham's jurisdiction that were scheduled for completion in the 2012-2020 time period. When I asked about the status of these projects at the Planning Commission meeting, I learned that none of them have been started yet. This is not encouraging news. I am concerned that project schedules in general will not be met, and the need to establish the compact neighborhood will arrive long before the infrastructure improvements that could improve pedestrian connectivity are finished. That is another reason to omit the Falconbridge Shopping Center.

In the appendix of the Executive Summary to the NC-54/I-40 Corridor Study I found a recommended land use concept for the area around the Leigh Village Light Rail Station. The land use concept has two rings of mixed use surrounded by two rings of residential, and resembles the core, support 1, support 2 and surrounding neighborhood way of tapering density down from the transit station. I note that this land use concept does not attempt to cross NC-54. I suggest that the Leigh Village Compact Neighborhood follow this recommended land use concept in support of the NC-54/I-40 Corridor Study.

The bottom line: use NC-54 as part of the boundary for the compact neighborhood.

2. Including area to the west of George King Road

Two speakers raised concerns about the extension of the proposed compact neighborhood area to the west of George King Road. While there may be valid reasons to do so, I also felt that the speaker's concerns were valid. Therefore, I urge that the extension of the compact neighborhood to the west of George King Road be reexamined.

3. Piecemeal approach

There appeared to be some confusion about what was meant by the compact neighborhood tier and the design district. What is going to happen? It appeared that the request under consideration would establish the tier boundary and identify everything inside that boundary as being in a design district. I believe that we need to do the design work concurrently with identifying the boundary. That way people will have some idea of what is going to happen. We may also find that developing the design helps to guide decisions about the location of the boundary. If we just establish a tier boundary and designate the land use as design district, we may very well wind up with development that we do not want.

4. The Rail Operations and Maintenance Facility (ROMF) question

Two speakers raised questions about the location of the ROMF. According to the Final Environmental Impact Study/Record of Decision (FEIS/ROD), the preferred location of the ROMF is a 25 acre site somewhat north of the proposed compact neighborhood between Farrington Road and I-40 (and in the MTC overlay zone). The speakers pointed out several concerns about this location, such as runoff that could impact Leigh Farm Park. A large concern was the location of this industrial (or industrial-like) use that would operate 24/7 adjacent to residential neighborhoods. I agree that it may be difficult to adequately buffer residential uses from the noise and light of the ROMF. Could the ROMF be incorporated into the Leigh Village Compact Neighborhood, and some of the office and commercial uses in the compact neighborhood be used to transition down to residential uses? That was the question asked by the speakers. I note that the FEIS/ROD stated that a site close to the transit stop was evaluated for the ROMF but rejected. However, the reasons for the rejection were not specified. I think that the question asked by the speakers needs an answer.

Finally, I note that staff also included two smaller land use designation changes in the report for the Leigh Village Compact Neighborhood. These proposed changes impact Eastwood Park and Villa Pine. Both changes are reasonable. I recommend that staff present them to the appropriate governing body separate from the compact neighborhood proposal, and that the governing board approve them.

Buzby – While I appreciate all the work by the Planning Department to work on the Leigh Village Compact Neighborhood, I cannot support this proposal as currently configured. As currently proposed, there are legitimate concerns about unaddressed potential traffic concerns, inclusion of the western side of George King Road, and concerns about how the design district will be implemented. I would prefer that the compact neighborhood be considered at the same time as the design district. This would provide certainty to the process and to the community. Finally, I do hope the city council will support the proposal to move Eastwood Park from commercial to low density.

Freeman – I support higher-density development in the areas around the planned light-rail stations. However, the timing of this amendment is too soon. The compact neighborhood

boundaries can protect some existing neighborhoods however, w/o design details attached we leave too many unchecked boxes regard city/county priorities like affordability. Once the affordable housing plan is in place we should attach both the design district + compact neighborhood amendment before both. – Celeste Circle should remain low density. We need to address the fears of residents around the transit funding + comprehensive tier planning that includes water + sewage, stormwater, infrastructure + maintenance. Details w/form + function. Define. How do we manage the goal of the city to create within ½ mile radius of transit stops affordable housing for people with 60% area median income if we separate design from boundary designation? Design district planning process needs to maintain the planning priority so compact neighborhood tiers are relevant to the conversation for creating affordability options around the light rail stops. – Changes w/o affordable housing design districts in place will not help the city meet its goal to create affordable housing options @ light rail stations. – Making amendments w/o zoning tools in place. Boundary issue. * King George Road – septic in clay concern for water and sewer. Change the future land use map for Eastway Park to remove all of Leigh Village. Leigh Village Farms.

Ghosh – I believe the neighbors have a legitimate concern regarding the ROMF. While the ROMF was not part of this case, I believe more could be done to address this and other issues.

Gibbs – This case should be forwarded to C.C. & C. Comm. to act on concerns of residents and “tweaks” as may be needed to boundaries. Also, the ROMF vocation should be reconsidered to near the CRT. Station. * But I have to vote no-w/ majority of D.P.C.

Harris – Voted no.

Huff – I urge the elected officials to vote against all of these amendments to the Future Land Use Map. We are being asked to create a group of Compact Neighborhood Tiers that will later become Design Districts each of which will have its own very specific attached zoning. We are asked to determine these boundaries without knowing what sort of configuration will exist within them. Once the Compact Neighborhood Tier is designated, the property will become more desirable and developers may seek to develop property without being subject to the Design District rules. It seems reckless to invite that. Also it is entirely possible that under the closer scrutiny occasioned by the actual establishment of real zoning there will be a need to adjust the overall boundaries we are presented with today.

If they are already set, that will be a problem. Finally, and I believe most importantly, these Compact Neighborhood Tiers and the accompanying Design Districts are supposed to provide affordable housing to those people using the transit system. Without strict enforceable regulations in place, those regulations that go with the actual creation of the Design Districts, we won’t get for our community what we must as regards housing. So until these vital components are in place, I believe we should not draw the Compact Neighborhood Tier boundary lines. There are other specific problems with several of these proposed districts. Despite the fact it is not in the proposed tier and district, I am concerned about the placement of the ROMF on Farrington Rd. It appears to be placed without any regard for the traffic

problems it will exacerbate, problems within the district as well as surrounding areas. Several community members spoke of existing traffic problems in the northeast corner of the proposed district and as I understand it possible solutions are not underway at this time. There are environmental consequences as well. From one of the community members we heard how already there is considerable run-off from Farrington Rd. area into culverts running under I-40 and then into Leigh Farm Park and neighborhoods east. There is already flooding. Since these problems will only get worse if the ROMF is placed on Farrington Rd., I wonder if a different location should be found. Why not place the facility closer to the planned rail station where right now there is no development, no neighborhoods to be disturbed and where it is environmentally more appropriate? We received a petition with over 200 signatures from community members objecting to this part of the Light Rail Plan. There is also some concern by community members regarding the inclusion in the Compact Neighborhood Tier of properties west of George King Rd. There seemed to be a question as to whether water and sewer would be extended into that area or if it were it would include all properties. Finally I question the inclusion of those properties south of Hwy. 54 in this tier as there doesn't seem to be the opportunity either to walk or bike from the northern portion of the district to them. The whole point of the district is for it to be pedestrian friendly, so people without cars can get to and from the transit station. If it can be separated from the rest of the land amendment, I support the proposed future land use change for Eastwood Park from Commercial to Low Density Residential. I also support the land use amendment for Villa Pinea from Low-Medium Density residential to Recreation and Open-Space.

Hyman – Approved the boundaries recommended in A1500014. Voted against action.

Kenchen – No comments.

Miller – The council and BOCC should vote no on this matter, but it should go ahead and change the Future Land Use Map as it concerns the Celeste Circle neighborhood (Eastwood Park) from Suburban Transit Area to low density residential. It is premature to establish boundaries for this compact tier at this time. The community is engaged in a planning process that will establish both a compact tier and design district within the tier. The process is well advanced, but not finished. While establishing boundaries is an important part of the process, the boundaries should not be adopted until the entire planning process is finished. The members of the public who spoke before us either supported the establishment of the boundaries because they had participated in the planning process to get themselves removed from the proposed tier or they opposed to establishing the boundaries now because they were apprehensive about what was to happen within them. Either way, it was poor showing for public support. I believe that when the planning process is over and we know how we plan to rezone the property within the final boundaries, public response will be based upon sound knowledge and not on apprehension born from the lack of it. Let's keep the boundaries in play until we include them as part of the final plan for the new design district.

I support the change to the FLUM as it concerns the Eastwood park neighborhood because there is broad community consensus on excluding it from the Suburban Transit Area. I suspect that when the compact neighborhood tier and design district boundaries are finally established, there will continue to

be broad consensus for excluding the neighborhood from those areas as well. Making this change now will not, in my opinion, interfere with planning for the design district going forward.

Concerning this and all new compact tiers and design districts I would like to make some observations:

1) There is confusion about what the terms “compact neighborhood tier” and “design district” mean. They are not the same. The confusion among members of the public affects their ability to contribute to the planning process in a meaningful way. Much of my correspondence with citizens about these issues over the past few weeks has been devoted to sorting out the differences. I think it is important to make a distinction between creating a compact neighborhood tier and creating a design district. What is proposed in this case and the next two cases is the designation of an area as a compact neighborhood tier. The cases do not involve creating design districts. Creating the compact neighborhood tier leaves all the current zoning in place. The effect on the current zoning would be to loosen some of the regulations for some of the current zoning districts within the area, that's all. Looser development regulations would tend to make the property within the proposed tier more attractive for development now, under the current zoning. I would prefer not to designate the tier until we are also ready to create the design district which would involve a rezoning of the entire district. By then our affordable housing program will be in place.

Creating a design district is a different process from designating a compact neighborhood tier. Creating a design district actually changes the zoning in the district. The common design district zones are Core, Support 1, and Support 2. These zoning districts involve design regulations in addition to the customary use and dimension regulations. So far, in Durham, we have two design districts - downtown and Ninth Street. Both use the core, S1, and S2 subdistricts and Ninth Street has a further subdistrict which probably isn't important to Leigh Village, but does point out that we can actually tailor-make subdistricts for each design district we make. We make design districts by first creating a design district plan in which we organize the resources, potentialities, and limitations of the area – transportation, open space, retail, residential, and office uses, environmental concerns, buffering neighboring uses, etc. in a unified and integrated way. This is planning that guides future development rather than merely responds to it.

I think creating the compact tier without finishing the design district plan and implementing it makes the area more unstable. The current zoning stays in place. Its regulations change only to make them looser for some parcels in some current zoning districts. The current zoning in the new compact neighborhood tier would guide development as if no district were coming and because the regulations would be marginally looser; the property might become more attractive for immediate development than it is right now. This is how we got a suburban Harris Teeter in the middle of the Ninth Street design district.

Anyway, we need to do a better job explain to citizens what the terms we use mean so that citizen input becomes meaningful and that results have broad public buy-in.

2) We should rethink our planning for design districts to require residential uses and not merely allow them and hope they will happen. There needs to be some allowance for a variety of residential uses as well. In our current design districts, downtown and Ninth Street, the core, support 1, and

support 2 regulations allow residential among the long list of permitted uses, but do not require that any of the property in these subdistricts be devoted exclusively to residential uses. In our downtown design district this is not really a problem because we don't consider the area as being primarily residential in character. In the Ninth Street district, we were lucky that the district emerged at a time when the real estate market preferred multifamily residential development. Had the district been created in a different market atmosphere, we might have wound up with a heavy concentration of office uses. As we create new design districts around transit stops as a means of concentrating population to support light rail, we must not simply trust to luck and assume that because developers chose high density residential at Ninth Street that the same thing will happen in other design districts as they come on line. We need to build into our design district regulations for these new districts provisions that either require or very strongly favor residential development. The new affordable housing incentive is a small step in the right direction, but those incentives alone will never steer residential development to these districts if we allow intense non-residential development alternatives.

3) We need to avoid over-zoning. While we put together our program for affordable housing - a program that will include incentives and other voluntary inducements - we must realize that our greatest leverage for affordable housing comes when developers ask for rezonings to zoning categories that require a development plan. In these situations, we can refuse rezoning requests that do not include commitments that take advantage of the bonus and incentive programs in our affordable housing "toolbox." This combination of development plan commitments and incentives of the type and form contemplated in the affordable housing section of the city charter are the key to obtaining affordable housing in Durham. But if we overzone our design districts so that there is no need to ask for rezonings, then we give away our leverage and we will never obtain the affordable housing we need at these important transit-oriented concentrations of population.

We overzone in design district planning when we initially zone large areas of the district core and support 1. These are the pinnacle zones in our catalog of zoning categories. They allow the most intense development with the least regulation. If a developer's property is already zoned core or support 1, he will need no rezoning from the city or county and the city or county will have no leverage to obtain a commitment for affordable housing. To prevent overzoning in our new design districts we should adopt a design district plan for each design district that identifies the areas within the district which are appropriate for core and support 1 development. When we first implement design district zoning in the district, we should rezone the entire district support 2. We should make it clear in the regulations that all core and support 1 districts must have development plans. When a developer wants to develop more intensely than the initial support 2 zoning will allow, he will have to ask for a rezoning to core or support 1. The rezoning request will give the city (or county) the opportunity to evaluate the request based upon the adopted design district plan and the developer's proposed commitments. In this way we will be able to make sure that the nature of the intense development we get in the design districts is what we want there. We will retain a level of control that will allow us to guide development in a way that supports our transit and housing goals and policies. If we rezone large areas of the design districts to core and support 1 initially, we give control away.

4) We need to plan also for the area just outside the district boundaries to ensure that those boundaries are stable. Because we allow the most intense development in design districts, the boundary between the district what lies outside can present a jarring contrast in uses and dimensions. If the boundaries are not stable, then we set up dominos to fall. Developers will try to acquire inexpensive land outside the design district boundaries and then ask for the boundaries to be extended and the land to be rezoned. So when we establish new design districts we should make sure that the support 2 areas at the edges provide a sufficient step-down in development intensity that the area just outside the district continues to remain viable and desirable as it is. This is especially true if the area is a residential neighborhood. We must make sure that the housing we create inside design districts is not destructive of the housing that already exists outside. One way to do this is to examine closely the zoning and use patterns just outside the design district and, as a part of the implementation of the new district, fix any zoning anomalies or other problems which, when suddenly pared with intense development nearby, may work to promote a spreading problem. One need only look at the zoning map for the East Durham vicinity of the Alston Avenue compact tier and proposed design district to see a mine field of potential problems. Nearly every lot is zoned a different category. The zoning pattern there is product or years of bad planning and neglect. The regulatory environment is so insecure that the purpose of zoning itself is defeated and the entire area is unsafe for investment. It should be cleaned up as a part of the design district planning for that compact tier. Also, our neighborhood protective overlay zone should be overhauled and put to use to protect neighborhoods that abut design districts. The idea for this overlay is a good one, but its parts are cumbersome, ill-defined and messy. It has not worked well in practice. It could, however, be made better.

And finally, with regard to Leigh Village, if the Woods Partners project is approved, then I would recommend considering aborting further planning for a compact tier and design district in this area. The project, which includes up to 600 residential units and 170,000 sq. ft. of office space, will use up the available traffic capacity of Hwy 54 and Farrington Road. Even with the improvements the developer has promised, the level of service of the roads will hover at the breakpoint of D and F. No new development in the proposed Leigh Village compact tier will be able to be developed at the intensity desired for design districts. There is a limit to the number of turn lanes one can add at that intersection to maintain a LOS of D. The Woods Partners project will essentially wreck the idea of a unified development plan for the area. What might be accomplished through an integrated plan will be lost if the largest development in the area is not part of any plan we might develop.

Riley – Voted no; in my opinion this compact neighborhood designation should be broken down into sub cases to ensure that the existing population + residents are included in the plan.

Vann – NC 40 & Highway 54. 10 minute discussion for those for or against agreed – 3 minutes per perm. Heard from residents and Home Owners Associates. Want approval of the amendment. Traffic issues were noted as well. Land worth move commercial to. Residential land will be cheap. I voted no-

Whitley – I voted not to approve.

Winders – IN GENERAL, I voted against this and all the Compact Neighborhood amendments because I believe that the FLUM should not be modified until an inclusive planning process has designated sub-district boundaries and tailored design district standards to the particular conditions in each Compact Neighborhood. When the tier boundaries are drawn or redrawn and future land uses are designated “Design District” as proposed, developers who wish to rezone will have to request a CD zoning (C, S1, S2). The existing standards for this zoning, developed to fit Ninth Street and Downtown, may not be appropriate for the suburban locations. Development is likely to take place in a piecemeal fashion driven by private rather than public interests instead of through comprehensive, thoughtful community-based planning. The proposed tier boundaries, developed through extensive public consultation, in general, form a sound basis for additional planning.

Furthermore, high density allowed by current UDO design district standards tends to weaken the impact of the affordable housing density bonus. Based on Enterprise study results on zoning strategies, there may be potential to tweak the system of incentives. Thus I believe that we should delay expanding Compact Neighborhoods or Design Districts until we have evaluated new options. I do recognize that current economic conditions are favorable to development and that we need to plan quickly to avoid missing opportunities for equitable transit oriented development.

With regard to the LEIGH VILLAGE COMPACT NEIGHBORHOOD SPECIFICALLY:

- Boundaries as proposed are good, though public opposition indicated a possible need for review of whether the portion west of George King Rd should be included
- The proposal to remove Eastwood Park from the transit area and to change its future land use designation from Commercial to Low Density Residential should be implemented WHETHER OR NOT A!500014 is adopted. Residents and staff agree that their current status is not desirable.
- Current environmental standards in the UDO compact districts and the Jordan Lake Protected Area are surely inadequate for this now very low density Compact Neighborhood. TREE COVERAGE, impervious surface, and riparian buffer standards should be strengthened before compact urban development comes to this area. Flooding from runoff coming through a culvert under I-40 is already an issue for Trenton Road residents and the Leigh Farm Park.